

### **301 KAR 3:090. Waterfowl painting contract.**

RELATES TO: KRS Chapter 13A, 150.230, 150.250, 150.605

STATUTORY AUTHORITY: KRS Chapter 13A, 150.605

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation pertains to the issuance of a contract for a painting to be used as the annual waterfowl stamp, which is issued by the state. The function of this administrative regulation is to identify the procedure for issuing the contract made necessary by KRS 150.605.

Section 1. Definitions. (1) "Painting" means the artist's original depiction of waterfowl as well as all prints, reproductions, photographs and other likenesses of the original, except the Kentucky waterfowl stamp.

(2) "Kentucky waterfowl stamp" means that stamp issued annually by the department using and depicting the painting described in subsection (1) of this section.

Section 2. Contractor Application and Designation. (1) Application. Nonprofit organizations, duly chartered in Kentucky and agreeing to the terms and conditions for expending proceeds from the sale of the Kentucky waterfowl stamp painting as detailed in KRS 150.605 and Section 4 of this administrative regulation, may apply to the department for the sole rights to commission, own, market and sell the Kentucky waterfowl stamp painting. Application shall be by letter to the commissioner and shall provide a marketing and sales history, a marketing plan, proof of charter and a general plan for dispensing sales revenues which identifies, as percentages of gross, direct and indirect administrative and other overhead expenditures along with revenues for waterfowl projects.

(2) Designation. The department shall evaluate the applications and choose the nonprofit organization, hereinafter referred to as the designee, that is best able to deliver a quality product based on history of marketing and fundraising success that yields the most benefits to waterfowl resources in the Mississippi Flyway. The designee shall be notified of his success by the department providing a signed written contract.

Section 3. Painting Commission, Delivery, Ownership and Use. (1) Commission. The designee shall be solely responsible for the commissioning of an artist for the production of a waterfowl painting. The painting shall be of such specifications that it can be easily rendered into the format of the Kentucky waterfowl stamp. The department shall have the right to review preliminary drawings and to require reasonable format changes or modifications.

(2) Delivery. The designee shall make a three and one-half (3 1/2) inch by five (5) inch four (4) color transparency of the painting available to the department by 30 May each year.

(3) Ownership and use. The title, copyright and all other rights in and to the painting shall be the property of the designee. The department may use reproductions of the painting for noncommercial promotional purposes without providing remuneration to the designee or seeking additional permission. The designee shall provide the department at no cost one (1) signed and numbered print with the appropriately numbered Kentucky waterfowl stamp affixed.

Section 4. Revenue Expenditures and Accountability. The designee shall provide the department with a complete report by 30 May of each year of projects, including their nature, location, and impact on the waterfowl using the Mississippi Flyway, to which the revenues of the sale of all paintings are applied. The report shall include an accounting of all revenues derived from the sale of the paintings and the amount of such proceeds expended upon each project.

Section 5. Stamps to the Committee. The department shall make available to the designee, at the

regular selling price, a sufficient number of first serially numbered stamps to use with the sale of prints. The designee shall be responsible and accountable for these stamps in the manner as any county clerk or any other agent authorized by a county clerk to sell licenses. (19 Ky.R. 541; eff. 9-23-92.)